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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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12 DFINITY USA RESEARCH, LLC, a limited
liability company,

13 Plaintiff,

14 v.

15 ERIC BRAVICK, an individual and DOES 1
16 through 100, inclusive,

17 Defendant.
18

Case No. 5:22-cv-03732-NC

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT ERIC
BRAVICK'S MOTION TO DISMISS**

Date: August 10, 2022
Time: 1:00 p.m.
Ctm: Courtroom 5
Judge: Hon. Nathanael Cousins

Complaint filed: May 11, 2022

19 Pursuant to Federal Rule of Evidence 201, Defendant Eric Bravick ("Defendant" or
20 "Bravick") respectfully requests that the Court take judicial notice of the following documents in
21 connection with Defendant Eric Bravick's Motion to Dismiss:

22 1. October 4, 2021 email from Christopher Tarpley to Eric Bravick. A true and
23 correct copy of the email is attached as Exhibit 1 to the Declaration of Eric Bravick submitted in
24 support of Defendant's motion to dismiss and this request to judicial notice.

25 2. November 2, 2021 email from Bradford Newman to Eric Bravick. A true and
26 correct copy of the email is attached hereto as Exhibit 2 to the Declaration of Eric Bravick
27 submitted in support of Defendant's motion to dismiss and this request to judicial notice.
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1 Plaintiff Dfinity USA Research, LLC (“Dfinity USA”) incorporates both emails into its
 2 Complaint in paragraphs 12 and 13, respectively. Courts are authorized to take judicial notice of
 3 a fact that “is not subject to reasonable dispute” because it (1) is generally known within the trial
 4 court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources
 5 whose accuracy cannot be reasonably questioned. *See* Fed. Evid. Rule 201(b). A court “may not
 6 take judicial notice of a fact that is ‘subject to reasonable dispute.’” *Lee v. City of Los Angeles*,
 7 250 F.3d 668 (9th Cir. 2001) (citing Fed. Evid. Rule 201(b)). It is appropriate to take judicial
 8 notice of email communications when “the complaint alleges the contents of [those] documents
 9 and . . . plaintiff does not dispute” their authenticity. *Theta Chi Fraternity, Inc. v. Leland*
 10 *Stanford Junior Univ.*, 212 F. Supp. 3d 816 (N.D. Cal. 2016). Plaintiff has alleged the contents
 11 of both of these emails in the Complaint and cannot plausibly contest these communications that
 12 they have identified by date, content, sender, and recipient.

13 Additionally, courts can consider documents incorporated by reference into a complaint
 14 “if the plaintiff refers extensively to the document or the document forms the basis of the
 15 plaintiff’s claim.” *US v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003). These emails are
 16 incorporated by reference in paragraphs 12 and 13 of the Complaint, respectively, where Plaintiff
 17 alleges that Mr. Tarpley and Mr. Newman each contacted Mr. Bravick on behalf of Dfinity USA
 18 regarding the equipment allegedly in Mr. Bravick’s possession.

19 For the foregoing reasons, Mr. Bravick respectfully requests that this Court take judicial
 20 notice of the documents attached to Mr. Bravick’s declaration as Exhibits 1 and 2.

21 Dated: July 1, 2022

Respectfully submitted,

CROWELL & MORING LLP

24 By: /s/ Joachim B. Steinberg

Gabriel M. Ramsey
 Joachim B. Steinberg

26 Attorneys for Defendant
 27 ERIC BRAVICK